

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Craig Heacock et al.

Serial No.: Not assigned

Group Art Unit: Not assigned

Filing Date: Herewith

Examiner: Not assigned

For: MODAFINIL PHARMACEUTICAL COMPOSITIONS

EXPRESS MAIL LABEL NO: EK722594676US  
DATE OF DEPOSIT: July 10, 200321712 U.S. PRO  
10/61676  
07/10/03Mail Stop  Patent Application  
 Provisional  DesignCommissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

## PATENT APPLICATION TRANSMITTAL LETTER

Transmitted herewith for filing, please find

A Utility Patent Application under 37 C.F.R. 1.53(b).  
 It is a continuing application, as follows:  
 continuation  divisional  continuation-in-part  
 of prior application number \_\_\_\_/\_\_\_\_\_.

A Provisional Patent Application under 37 C.F.R. 1.53(c).

A Design Patent Application (submitted in duplicate).

Request for Nonpublication. The invention(s) disclosed in the present application filed herewith has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing. Thus, pursuant to 35 U.S.C. § 122 (b)(2)(B)(i),

Applicant(s) request that the above-identified patent application not be published.

Including the following:

- Provisional Application Cover Sheet.
- New or Revised Specification, including pages 1 to 41 containing:
  - Specification
  - Claims
  - Abstract
  - Substitute Specification, including Claims and Abstract.
- The present application is a continuation application of Application No. \_\_\_\_\_ filed \_\_\_\_\_. The present application includes the Specification of the parent application which has been revised in accordance with the amendments filed in the parent application. Since none of those amendments incorporate new matter into the parent application, the present revised Specification also does not include new matter.
- The present application is a continuation application of Application No. \_\_\_\_\_ filed \_\_\_\_\_, which in turn is a continuation-in-part of Application No. \_\_\_\_\_ filed \_\_\_\_\_. The present application includes the Specification of the parent application which has been revised in accordance with the amendments filed in the parent application. Although the amendments in the parent C-I-P application may have incorporated new matter, since those are the only revisions included in the present application, the present application includes no new matter in relation to the parent application.
- A copy of earlier application Serial No. \_\_\_\_\_ Filed \_\_\_\_\_, including Specification, Claims and Abstract (pages 1 - @@), to which no new matter has been added TOGETHER WITH a copy of the executed oath or declaration for such earlier application and all drawings and appendices. Such earlier application is hereby incorporated into the present application by reference.
- Please enter the following amendment to the Specification under the Cross-Reference to Related Applications section (or create such a section) :  This Application:
  - is a continuation of  is a divisional of  claims benefit of U.S. provisional Application Serial No. 60/395,537 filed July 12, 2002.

- Signed Statement attached deleting inventor(s) named in the prior application.
- A Preliminary Amendment.
- 3 Sheets of Informal Drawings.
  - Drawing view to publish: Figure 1.
- Petition to Accept Photographic Drawings.
- Petition Fee
- An  Executed  Unexecuted Declaration or Oath and Power of Attorney.
- An Associate Power of Attorney.
- An  Executed  Copy of Executed Assignment of the Invention to
  - A Recordation Form Cover Sheet.
  - Recordation Fee - \$40.00.
- The prior application is assigned of record to
- Priority is claimed under 35 U.S.C. § 119 of Patent Application No. filed \_\_\_\_\_ in \_\_\_\_\_ (country).
  - A Certified Copy of each of the above applications for which priority is claimed:
    - is enclosed.
    - has been filed in prior application Serial No. \_\_\_\_\_ filed \_\_\_\_\_.
- Please enter the following amendment to the first sentence of the specification (or create such a sentence): "This application claims benefit of international application No. \_\_\_\_\_, which was published under PCT Article 21(2) in English."
- Applicant(s) by its/their undersigned attorney, claims small entity status under 37 C.F.R. § 1.27 as:
  - an Independent Inventor
  - a Small Business Concern
  - a Nonprofit Corporation
- Diskette Containing DNA/Amino Acid Sequence Information.
- Statement to Support Submission of DNA/Amino Acid Sequence Information.

The computer readable form in this application \_\_\_\_\_, is identical with that filed in Application Serial Number \_\_\_\_\_, filed \_\_\_\_\_. In accordance with 37 CFR 1.821(e), please use the  first-filed,  last-filed or  only computer readable form filed in that application as the computer readable form for the instant application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant application. A paper copy of the Sequence Listing is  included in the originally-filed specification of the instant application,  included in a separately filed preliminary amendment for incorporation into the specification.

Information Disclosure Statement.

Attached Form 1449 (modified).

Copies of each of the references listed on the attached Form PTO-1449 are enclosed herewith.

A copy of Petition for Extension of Time as filed in the prior case.

Appended Material as follows: \_\_\_\_\_.

Return Receipt Postcard (should be specifically itemized).

Other as follows:

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**FEE CALCULATION:**

Cancel in this application original claims \_\_\_\_\_ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)

		NOT SMALL ENTITY	
		RATE	Fee
PROVISIONAL APPLICATION		\$160.00	\$
DESIGN APPLICATION		\$330.00	\$
UTILITY APPLICATIONS BASE FEE		\$750.00	\$ 750.00
UTILITY APPLICATION; ALL CLAIMS CALCULATED AFTER ENTRY OF ALL AMENDMENTS			
TOTAL CLAIMS	No. Filed	No. Extra	
	161 - 20 =	141	\$18 each \$ 2,538.00
INDEP. CLAIMS	12 - 3 =	9	\$84 each \$ 756.00
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM		\$280.00	\$ 280.00
ADDITIONAL FILING FEE		\$	\$
TOTAL FILING FEE DUE		\$ 4,324.00	

A Check is enclosed in the amount of \$\_\_\_\_\_.

The Commissioner is authorized to charge payment for any or all of the following fees and to refund any overpayment associated with this communication or during the pendency of this application to deposit account 03-1195. This sheet is provided in duplicate.

The foregoing amount due.

Any additional filing fees required, including fees for the presentation of extra claims under 37 C.F.R. 1.16.

Any additional patent application processing fees under 37 C.F.R. 1.17 or 1.20(d).

The issue fee set in 37 C.F.R. 1.18 at the mailing of the Notice of Allowance.

The Commissioner is hereby requested to grant an extension of time for the appropriate length of time, should one be necessary, in connection with this filing or any future filing submitted to the U.S. Patent and Trademark Office in the above-identified application during the pendency of this application. The Commissioner is further authorized to charge any fees related to any such extension of time to deposit account 03-1195. This sheet is provided in duplicate.

Address all correspondence to Customer No. 27573 which is assigned to Cephalon, Inc., 145 Brandywine Parkway, West Chester, PA 19380.



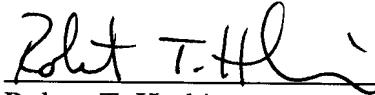
27573  
PATENT TRADEMARK OFFICE

Direct all telephone calls to:

Cephalon, Inc.  
145 Brandywine Parkway  
West Chester, PA 19380  
Telephone: (610) 738-6356  
Facsimile: (610) 738-6590

**SHOULD ANY DEFICIENCIES APPEAR** with respect to this application, including deficiencies in payment of fees, missing parts of the application or otherwise, the United States Patent and Trademark Office is respectfully requested to promptly notify the undersigned.

Date: July 10, 2003

  
\_\_\_\_\_  
Robert T. Hrubiec  
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